

# Settling a row out of court

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Instead of heading to court to try to resolve a dispute there are alternatives that may be better to try first.

In an arbitration an arbitrator or panel of arbitrators makes a binding decision. The parties have to pay the arbitrator, but the advantage is usually specialised knowledge in a specific area.

Arbitrations are not open to the public so they offer the advantage of privacy. They can also be quicker than court proceedings because of limits on available court time.

Mediation is where an independent third party assists the parties involved in a dispute to achieve a mutually acceptable resolution. Mediation is included in a number of legislative dispute resolution processes for instance in the areas of employment, family, residential tenancies and resource management.

Parties in a mediation are free to agree on how some of the issues can be resolved. Mediations provide a faster and less

expensive way to solve problems and are not open to the public. They can also provide more remedies for resolving a dispute as the parties may agree on remedies that are not possible from a court-ordered outcome.

Negotiation is where parties, either themselves or represented by their lawyers, formally discuss matters of mutual concern and attempt to resolve the dispute that has arisen between them. This method of resolving disputes is usually quicker and cheaper than going to court and provides another potential way to resolve the dispute in private.

Some areas provide an ombudsman service that can rule on disputes e.g. insurance and banking.

Judicial settlement conferences can occur where the dispute has been lodged in court. A judge will meet with the parties and their lawyers to attempt to get a resolution without the need for a full court hearing. If the dispute is not settled the full hearing is then before a different judge.

This type of process can also include a meeting of the experts for both parties to see if areas of agreement between the experts can be reached. That narrows down the dispute for the parties.



**"Mediations provide a faster and less expensive way to solve problems."**

There are various tribunals that aim to resolve disputes between parties in a cost effective and timely manner.

Specialist tribunals available include the Tenancy Tribunal and Motor Vehicle Disputes Tribunal, that can hear claims of larger amounts than the non-specialist

Disputes Tribunal, which can only hear claims up to \$15,000 (or \$20,000 with the consent of the parties).

These dispute resolution tribunals are usually quicker and cheaper than litigation in court but may be open to the public.

Lawyers can appear in the Tenancy Tribunal if the tribunal considers the issues to be complicated, the dispute is over \$6,000, or one of the parties is unable to present their case adequately. The tribunal may also allow legal representation if the parties agree.

Lawyers are not allowed to appear in the Disputes Tribunal, or Motor Vehicle Disputes Tribunal except in special circumstances but lawyers can assist you to prepare for the hearing by drafting briefs of evidence, assisting with questions to ask the witnesses etc.

Column courtesy of RAINEY COLLINS LAWYERS phone 0800 733 484, or see [raineycollins.co.nz](http://raineycollins.co.nz). If you have a legal inquiry you would like discussed in this column please email Alan, [aknowsley@raineycollins.co.nz](mailto:aknowsley@raineycollins.co.nz)

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